

IN SENATE OF THE UNITED STATES.

FEBRUARY 2, 1846.

Submitted, and ordered to be printed.

Mr. DICKINSON made the following

REPORT :

The Committee of Claims, to whom was referred the petition of Edward D. Tippet, report :

That the facts stated in the annexed communication from the War Department show that the petitioner has no just claim whatever upon the government ; and they recommend that the prayer of the petitioner be not granted.

WAR DEPARTMENT, January 23, 1846.

SIR: In answer to your letter of the 15th instant, I respectfully transmit, herewith, to the Committee of Claims of the Senate of the United States, a report of the Adjutant General of the army, which contains all the information that can now be furnished by this department in relation to the claim of Edward D. Tippet, referred to in your communication.

The petition and other papers enclosed by you are herewith returned.

Very respectfully, your obedient servant,

W. L. MARCY,
Secretary of War.

Hon. D. S. DICKINSON,
Committee of Claims, Senate.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, January 20, 1846.

SIR: Pursuant to your instructions, I have the honor to make the following report on the communication of the Hon. D. S. Dickinson, of the Senate, of the 15th instant, in reference to the extraordinary claim of Edward D. Tippet, formerly an enlisted soldier, employed as a temporary clerk in this office.

This is an old claim, which has been repeatedly set up, and as repeatedly rejected—it being regarded, invariably, as too preposterous to be seriously entertained by the War Department. Numerous reports, from time to time, have been called for from this office, and as these have exhausted the subject, I do not know how I can better meet the object of the present inquiry, than by annexing extracts from some of the former statements which have

Ritchie & Heiss, print.

been made to the Secretary of War. And first, I beg leave to quote from a report made by Major L. Thomas, the assistant adjutant general in my absence, to the General-in-Chief, June 24, 1840, in answer to an inquiry of Hon. J. R. Giddings, as follows :

"For a number of years prior to the passage of the act of May 9, 1836, entitled 'an act providing for the salaries of certain officers therein named, and for other purposes,' giving additional clerks, it was the custom to employ non-commissioned officers of the army (with the authority of the Secretary of War) in the several bureaus of the War Department as clerks, who, in addition to their pay, received, under regulations of the War Department, extra compensation. Individuals were specially enlisted for this purpose, and were appointed sergeants."

"Edward D. Tippet was thus enlisted, on the 7th day of June, 1833, (at the instance of General Jones,) for three years, (the period then prescribed by law for all enlisted men, '*unless sooner discharged*,') and was placed on duty in the Adjutant General's office. He continued on duty until the 31st day of August, 1834, when he was discharged from the service, under the authority of the 11th article of the Rules and Articles of War, the Adjutant General signing the discharge, as the official organ of the Major General Commanding-in-Chief. *The cause of discharge was incompetency.*

"During the entire period that E. D. Tippet acted as clerk, I was on duty in the Adjutant General's office, and he was particularly under my instructions, being required to copy the letters relating to the recruiting service—which branch of business I was, under the orders of the Adjutant General, charged with. He was required to do little else than simply copy the letters, (the extent, it was conceived, of his capacity,) and even this duty was, in many instances, badly done. I have often remarked that I had rather do the duty myself than to so constantly examine and correct this man's writing. He was attentive, and perfectly willing to attend to the business given him, but he was not competent to the performance of the duties required as a clerk in the Adjutant General's office.

"The claim made by E. D. Tippet is for pay from the date of his discharge, (31st August, 1834,) to the period of his enlistment, (the 7th of June, 1836,) during which time he rendered no service, having been legally discharged at the former date."

Mr. Tippet has made numerous applications to the Secretary of War on the subject of his imaginary claim, and in reply to that of January 11, 1845, Mr. Secretary Wilkins gave the following answer :

"WAR DEPARTMENT, January 18, 1845.

"SIR : In answer to your letter of the 11th instant, I have to state that it appears by the records of this department in the Adjutant General's office, that you enlisted into the army on the 7th of June, 1833, for three years, and that you continued on duty till the 31st of August, 1834, when you were discharged under the 11th article of the Rules and Articles of War, and paid in full to the time of discharge.

"It is not competent for any officer of the government to pay you after your discharge, and you have no just claim for further pay, as urged in your communication.

"Very respectfully, your obedient servant,

"WM. WILKINS.

"Mr. EDWARD D. TIPPETT, Washington."

Again : Mr. Tippet having renewed his claims in a letter addressed to the Secretary of War, Mr. Marcy, dated April 12, 1845, which was referred to the Adjutant General, the undersigned, on the 17th of April, made the following endorsement on said letter, as his report called for in the case :

"One morning in the summer of 1833, the writer of this letter (Mr. Tippet) called at my house on 6th street, and with a sorrowful countenance, and in tones of undissembled distress, which I did not see or hear, unmoved, *asked for employment*. He had, he said, been a schoolmaster, and could write a good hand, and would be most thankful if I would intercede for him, or in any way contrive to give him employment. I had never seen the worthy old gentleman before, but thought I saw something in his case and looks which would justify me to help him in his utmost need, in the way of public employment, *if consistent with the public service*. Colonel Bomford, too, spoke a kind word for him. I said, at length, I have work enough in the office, and I will employ Mr. Tippet, if the Secretary of War will allow me. I enlisted him, for which he was most thankful, June, 1833. I continued to employ him till August, 1834, when he was discharged, and then he no longer remembered my former kindness.

"For the good and sufficient cause of the discharge, I beg leave respectfully to refer to the special report of Major Thomas, (not General Jones's, as the writer states,) dated June 24, 1840.

"And as this misguided petitioner has appealed to every administration, and every Secretary of War, from 1834 to the present time, and means to do so during life, I respectfully recommend that the answer of the Secretary of War, of January 18, 1845, be regarded as an answer to this letter ; in other words, that this letter be not answered at all.

" R. J."

The following letter of Mr. Secretary Marcy to the Hon. Mr. Bagby confirms the opinion of his predecessor, which coincides with every head of the department, since this most extraordinary claim was first set up by the deluded petitioner :

"WAR DEPARTMENT,
Washington, September 6, 1845.

"SIR : In relation to the case of Tippet, I consider that his discharge was legal and effective. His case has been passed on by my predecessors repeatedly, as I am informed; that it has been submitted to the President, and even to Congress. If I doubted as to the legality of his discharge (but I do not) I could not open it.

" Yours truly,

" W. L. MARCY.

"GOV. BAGBY."

The remarks of the Adjutant General submitted to the Secretary of War, April 17, 1845, quoted above, show under what circumstances of benevolent intention, and of the public service, this destitute and forlorn old man was enlisted—not to carry a musket—not as "a soldier," but merely as an acting clerk for *temporary employment in this office*, "for the period of three years, *unless sooner discharged by proper authority*." And it is also shown in Major Thomas's report of 1841, beyond doubt or cavil, that the *cause*—the true and only cause of discharge was his *incompetency* to perform the

duties of a good clerk in this bureau of the War office. As to this point, (his incompetency,) Major Thomas, now present, avers that he repeatedly mentioned the fact to the Adjutant General, as did also Captain Schriver; and I affirm, it was not until the kindly feelings of benevolence and sympathy were made to yield to the sterner sense of duty, the paramount obligation to the public interest, that Mr. Tippet was finally discharged, not, however, as he aims to establish, contrary to law, but in due form, according to established usage, "*by proper authority*," i. e., by the Adjutant General of the army, in virtue of the *authority* of the late Major General Macomb, received on the spot in person.

Touching this point, I respectfully insert the following letter, dated June 15, 1835, which I presume will be deemed to be conclusive, to wit:

"ADJUTANT GENERAL'S OFFICE,
"Washington, June 15, 1835.

"SIR: In conformity with your instructions, I have examined the subject of the complaint of E. D. Tippet, respecting the legality of his discharge from the service, and have merely to remark, that it was made by and with your authority, according to the provisions of the 11th article of war; and which, according to the usage of the service, in innumerable like cases, was signed by the Adjutant General of the army.

"On examining Tippet's discharge, I perceive the blank left for your *name* was omitted to be filled, which, however, does not impair the legality of the discharge, as it is known to the army that the signature of the Adjutant General, in such and many other cases, is expressive of the act of the commanding general, or Secretary of War, as the case may be.

"Respectfully submitted,

"R. JONES,
"Adjutant General.

"Major General A. MACOMB,
"Commanding the Army."

Among the papers before me is Mr. Tippet's account for the claim of his monthly compensation in the grade of sergeant, amounting to \$29 80—in the aggregate, to \$625 85, to wit:

Pay per month, as sergeant	-	-	-	-	\$12 00
Clothing, do	-	-	-	-	2 50
Fuel and quarterage, do	-	-	-	-	6 00
Rations, 15 cents per day	-	-	-	-	4 50
Extra gill of whiskey per day	-	-	-	-	30
Per diem at 15 cents	-	-	-	-	4 50
					<hr/>
					\$29 80

Now, should he so far succeed in his petition to Congress as to establish the illegality of his discharge as alleged, he could not, with any regard to law or equity, be allowed arrearages in the grade of *sergeant*, or the extra allowances of an acting clerk, for he never was appointed a sergeant, but merely mustered for the time being as such, for a *special, temporary purpose*—temporary employment as an acting clerk, with the permission of the Secretary of War, at my instance. Proving to be unfit for the station,

can it be supposed that, on the representation of the fact, the Secretary, the Hon. Mr. Cass, would have so exercised his authority as to command his retention? Surely not. Ceasing to act as clerk, he could not therefore be entitled to the *extra* allowances and commutations charged in his account, for these accrued only in cases of actual employment. The *per diem* of fifteen cents, one of the items, the extra gill of whiskey another, are extra allowances, regulated and restricted by law—contingent, not habitual. The *sine qua non* is, that the soldier must actually perform the *extra* work, and the fact certified by the responsible officer, &c.

If Tippet had been assigned to some regiment as a "*soldier*," instead of receiving his *discharge* from the service, of which he complains, what *would have been his station, and what his pay?* The answer is plain and simple—that of a *private*, and no more; and this would be his simple case should the repeated decisions of the Secretary of War be now reversed by law. But, if he had been sent to join some regiment, to serve out the residue of his term as a soldier, which, no doubt, he would have thought a very hard case, he must have been *rejected*, because he was over the lawful age, being 44 when he enlisted—35 being the limit as to recruits, i. e., first enlistments, &c. &c.

The real merits of this case are so well understood by the War Department, it may seem that I dwell upon it longer than was necessary; but the array of grievances alleged by the memorialist, yet, in truth, for the most part a tissue of disingenuous misrepresentation and erroneous deduction, makes it proper to say as much.

Respectfully submitted,

R. JONES,
Adjutant General U. S. Army.

Hon. WM. L. MARCY,
Secretary of War.

[REDACTED]

IN THE SENATE OF THE UNITED STATES

[REDACTED]

REPORT

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]